

TITLE 326 AIR POLLUTION CONTROL BOARD

DRAFT RULE #96-16(APCB)

DIGEST

Adds new rule 326 IAC 6-4.5, fugitive dust sources. Repeals 326 IAC 6-4. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: December 1, 1996, Indiana Register (20 IR 792).

Second Notice of Comment Period: March 1, 1997, Indiana Register (20 IR 1650).

Second Notice of Comment Period and Notice of First Hearing: February 1, 2001, Indiana Register (24 IR 1459).

Date of First Hearing: April 12, 2001.

DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING FUGITIVE DUST

326 IAC 4-4.5

SECTION 1. 326 IAC 6-4.5 IS ADDED TO READ AS FOLLOWS:

Rule 4.5. Fugitive Dust Emissions

326 IAC 6-4.5-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. This rule applies to all sources of fugitive dust and to other sources of dust as provided in section 6 of this rule. (*Air Pollution Control Board; 326 IAC 6-4.5-1*)

326 IAC 6-4.5-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 2. As used in this rule, the following definitions apply:

(1) "Dust" means any finely divided solid or liquid material, excluding water or steam that is not in combination with any other gaseous or particulate pollutant (uncombined water).

(2) "Excessive wind speed" means wind speed greater than:

(A) thirty (30) miles per hour, measured by a one (1) hour average of hourly recorded values; or

(B) forty (40) miles per hour, measured instantaneously;

at a monitoring location with a sensor height above the particulate monitor. The department

may use the closest state, local, or industrial meteorological station that collects continuous wind speed data and uses the quality assurance procedures provided in Chapter 9 of the Indiana Quality Assurance Manual (June 1997)* to measure wind speed. The particulate monitor shall be located between two (2) and fifteen (15) meters above ground level.

(3) "Fugitive dust" means dust, whether from a single operation or a number of operations at a source, that:

(A) is emitted from any location, process, operation, or activity, including a point source such as a stack or vent;

(B) is or has been airborne; and

(C) escapes beyond the property line or boundaries of the property, right-of-way, or easement in which the location, process, operation, or activity is located.

*These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20401 or are available for copying at the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 6-4.5-2*)

326 IAC 6-4.5-3 Finding of excessive fugitive dust

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. Whenever any of the following occur, a source or sources generating fugitive dust shall be in violation of this rule, and the department shall issue a written finding of excessive fugitive dust:

(1) The average downwind concentration of fugitive dust exceeds one hundred fifty (150) micrograms per cubic meter and the average downwind concentration exceeds the average upwind concentration by at least fifty (50) micrograms per cubic meter for a time period not less than one (1) hour, subject to the following provisions:

(A) As used in this rule, "upwind" means the direction from which the wind is blowing at the start of the monitoring time period, plus or minus twenty-two and five-tenths (22.5) degrees.

(B) As used in this rule, "downwind" means the opposite direction (one hundred eighty (180) degrees) from the upwind direction, plus or minus twenty-two and five-tenths (22.5) degrees.

(C) Upwind and downwind monitors shall be operated simultaneously and shall be started and shut down within one (1) minute of each other.

(D) Monitors shall be placed at no less than two (2) meters and no more than five (5) meters above the ground and located off the property of the source.

(E) Wind direction must remain within the directions established in clauses (A) and (B) at least ninety-five percent (95%) of the monitoring time period.

(F) Ambient air concentrations in this section shall be measured using the standard high-volume sampling and analysis techniques as specified by 40 CFR 50, Appendix B*.

(2) Fugitive dust originating from the source is visible crossing the property line, boundary

of the property, right-of-way, or easement on which the source is located. Visible fugitive dust shall be determined by observation by a designated representative of the commissioner who has been trained in accordance with 40 CFR 60 Appendix A, Method 9.* The commissioner may designate as a representative an employee of the department or of a local agency.

(3) The department determines, by a preponderance of the evidence, through secondary deposition analysis conducted in accordance with accepted sampling procedures, that fugitive dust originating from the source has crossed the property line, boundary of the property, right-of-way, or easement on which the source is located.

*These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20401 or are available for copying at the Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. (*Air Pollution Control Board; 326 IAC 6-4.5-3*)

326 IAC 6-4.5-4 Fugitive dust control plan

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. (a) Not later than thirty (30) days after receiving a finding of excessive fugitive dust under section 3 of this rule, the owner or operator of a source shall submit to the department a written fugitive dust control plan that will correct the excessive fugitive dust.

(b) The control plan shall address the following:

(1) If the origin of the excessive fugitive dust can be reasonably identified, then the control plan shall consist of specific measures designed to address specific activities causing excessive fugitive dust.

(2) If the origin of the excessive fugitive dust cannot be reasonably identified, then the control plan shall be source-wide.

(c) At a minimum, the plan shall contain the following information:

(1) The name and address of the source.

(2) The name and address of the owner or operator of the source.

(3) Identification of all processes, operations, and areas at the source that emit or have the potential to emit fugitive dust, including a map or diagram of the processes, operations, and areas identified, unless subsection (b)(1) applies, which would limit identification to the activities that are the origin of the fugitive dust.

(4) Type and estimated quantity of materials that can cause fugitive dust that are handled at the source, unless subsection (b)(1) applies, which would limit identification of materials to the activities that are the origin of the fugitive dust.

(5) Detailed description of control measures to be implemented to achieve compliance with this rule. Details may include the following:

(A) Specifications of any dust suppressant material, including the estimated frequency of

application and concentration.

(B) Specification of the particulate collection equipment used as a fugitive dust control measure.

(6) A schedule for compliance with the provisions of the control plan.

(7) Other information necessary for the department to review the control plan.

(8) Record keeping and reporting requirements sufficient to ensure compliance with the plan.

(d) The department may request that additional information be provided by the source.

(e) The department shall approve a fugitive dust control plan if the department determines that the plan will reduce the excessive fugitive dust to the extent practicable. An approval may contain record keeping and reporting requirements sufficient to ensure compliance with the plan.

(f) The department shall not approve a fugitive dust control plan if the department determines that the proposed plan will not reduce the excessive fugitive dust to the extent practicable, or if the source fails to submit information required under subsection (c) or, if applicable, subsection (d).

(g) The department may issue a fugitive dust control plan, which shall be the approved plan, if:

(1) the department does not approve the plan submitted by the source; or

(2) the source fails to submit a plan within the time period set forth in subsection (a).

A fugitive dust control plan issued by the department shall be consistent with subsections (b) and (c).

(h) The department may modify any existing operating permit to include the requirement that the source have and implement the approved fugitive dust control plan. If no operating permit exists, the approved plan remains in effect until such time as the source requests, in writing, that the department withdraw or amend its plan and the department approves the withdrawal or amendment.

(i) The owner or operator of a source shall submit amendments to the department for approval so that the fugitive dust control plan is current with the activities that caused the excessive fugitive dust at the source. Amendments shall be consistent with this rule. If circumstances at the source change in a way that significantly increases fugitive dust emissions, or if the plan does not adequately address excessive fugitive dust emissions, then the department may require, in writing, that the owner or operator submit amendments to the plan not later than thirty (30) days after receipt of the department's written request. The department may issue amendments to the plan if the source fails to submit them within the thirty (30) day time period.

(j) Approval or issuance of a plan by the department does not limit the department's authority to issue amendments to the plan, if the department determines that compliance with the plan does not reduce the excessive fugitive dust to the extent practicable.

(k) After making a finding of excessive fugitive dust and before a fugitive dust control plan is submitted, the department, if necessary to protect human health or the environment, may issue an order requiring implementation of control measures that will reduce or prevent fugitive dust until a control plan or amendments to a plan can be submitted and approved.

(l) The department may determine that multiple sources contributed to a finding of excessive fugitive dust. When this occurs, the department may, in the finding of excessive fugitive dust, require that each source prepare a fugitive dust control plan in accordance with this section.

(m) The owner or operator may request an extension of time from the department of the initial thirty (30) day requirement to submit a fugitive dust control plan. The request shall be submitted in writing prior to the end of the thirty (30) day requirement to submit a fugitive dust control plan, with justification for the inability to meet the deadline.

(Air Pollution Control Board; 326 IAC 6-4.5-4)

326 IAC 6-4.5-5 Exceptions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. The following are exceptions and therefore are not considered fugitive dust for the purposes of this rule:

(1) Fugitive dust from a publicly maintained unpaved thoroughfare where no nuisance or health hazard is created by its usage or where the unit of government that maintains the thoroughfare determines that no means are available to finance the necessary road improvements immediately. A reasonable long-range schedule for necessary road improvements shall be submitted to the department to support the granting of this exception.

(2) Fugitive dust from construction or demolition where every reasonable precaution has been taken to minimize fugitive dust emissions, and where the owner or operator has evaluated whether the site of planned construction or demolition has an accumulation of bird or bat droppings at least two (2) inches thick and, if so, has contacted the local health department to receive advice on histoplasmosis prevention.

(3) Fugitive dust generated from agricultural operations, providing:

- (A) every reasonable precaution has been taken to minimize fugitive dust emissions; and**
- (B) operations are terminated if a severe health hazard is generated due to prevailing meteorological conditions.**

(4) Plumes from a stack or vent that:

- (A) are visible when crossing the property line;**
- (B) are in compliance with other applicable rules; and**

(C) do not downwash to less than ten (10) meters above the ground; provided there is no finding of excessive fugitive dust based on secondary deposition analysis.

(5) Fugitive dust caused by:

(A) excessive wind speed; or

(B) drought that is a disaster under IC 10-4-1.

(Air Pollution Control Board; 326 IAC 6-4.5-5)

326 IAC 6-4.5-6 Motor vehicles

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. (a) No motor vehicle being used for commercial or business purposes shall be driven or moved on any public street, road, alley, highway, or other thoroughfare unless such vehicle is so constructed, operated, or equipped as to prevent:

(1) dripping, sifting, leaking, or otherwise escaping of its contents;

(2) tracking mud; or

(3) creating conditions that result in generation of dust that is or will become airborne.

(b) Failure to comply with subsection (a) is a violation of this rule. The department shall issue a written finding of excessive fugitive dust to one or more of the following:

(1) The owner or operator of the motor vehicle.

(2) The owner of the property from which the motor vehicle tracked mud.

(c) This section does not apply to the following properties used for commercial or business purposes from which a motor vehicle tracks mud:

(1) Publicly maintained unpaved thoroughfares where no nuisance or health hazard is created by its usage or where the unit of government that maintains the thoroughfare determines that no means are available to finance the necessary road improvements immediately. The responsible governmental unit shall submit to the department a reasonable long-range schedule for necessary road improvements to support granting such an exception.

(2) Construction or demolition where every reasonable precaution has been taken to minimize mud being tracked off the site.

(3) Agricultural operations providing every reasonable precaution has been taken to minimize mud being tracked off the site.

(Air Pollution Control Board; 326 IAC 6-4.5-6)

SECTION 2. 326 IAC 6-4 IS REPEALED.